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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,329	09/17/2003	Steven G. Goebel	GP-303480	4211

7590

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EXAMINER

YUAN, DAH WEI D

ART UNIT

PAPER NUMBER

1745

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,329

Applicant(s)

GOEBEL, STEVEN G.

Examiner

Dah-Wei D. Yuan

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-41 is/are allowed.
- 6) ☒ Claim(s) 42-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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FUEL CELL SHUTDOWN AND STARTUP USING A CATHODE RECYCLE LOOP

Examiner: Yuan

S.N. 10/664,329

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April 5, 2005

Detailed Action

1. The Applicant's amendment filed on January 27, 2005 was received. Claim 42 was amended. Claims 53-55 were added.
2. The text of those sections of Title 35, U.S.C. code not included in this action can be found in the prior Office Action issued on November 16, 2004.

Specification

3. The amendment filed January 27, 2005 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Upon attainment of a predetermined operational condition in said fuel cell, fuel introduced through said fuel inserting valve and into said recirculation loop can be reacted in said recirculation loop with oxygen to reduce the concentration thereof.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 42-55 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The recitation "upon attainment of a predetermined operational condition in said fuel cell, fuel introduced through said fuel inserting valve and into said recirculation loop can be reacted in said recirculation loop with oxygen to reduce the concentration thereof" is not disclosed in the instant specification. If applicant believes said limitations are fully defined, it is requested that applicant indicates column and line, and/or figure with number, identifying the support.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 42-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The term "predetermined" has been held to be indefinite, since applicant's specification fails to disclose criteria for determining the predetermined parameter. See Seagram and Sons Inc. v. Mazall 84 USPQ 180 (CACD 1950).

Claim Rejections - 35 USC § 102

8. The claim rejections under 35 U.S.C. 102(b) as anticipated by Perry on claims 42-44 withdrawn, because the independent claim 42 has been amended.

Claim Rejections - 35 USC § 103

9. The claim rejections under 35 U.S.C. 103(a) as unpatentable over Perry on claims 45-47,51,52 are withdrawn, because independent claim 42 has been amended.

Response to Arguments

10. Applicant's arguments filed on January 27, 2005 have been fully considered but they are not persuasive.

Applicant's principle arguments are

Amended claim 42 now recites that the introduction of fuel into the loop during select conditions to reduce the oxygen concentration in the anode flowpath.

In response to Applicant's arguments, please consider the following comments.

The instant disclosure teach once the oxygen in the recirculating fluid is consumed, purge valve 346 is opened to allow fluid communication between the anode flowpath 340 and cathode flowpath 350. This allows the (now substantially oxygen-free) fluid that hitherto this time had been entrained in the recirculation loop 352 to purge the anode 310 of residual fuel and other

fluids. See Paragraph 30. The oxygen in the fluid introduced into the anode flowpath is not merely reduced, rather it is completely consumed (a substantially oxygen-free fluid).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dah-Wei-D. Yuan whose telephone number is (571) 272-1295. The examiner can normally be reached on Monday-Friday (8:00-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dah-Wei D. Yuan
April 5, 2005

A handwritten signature in black ink, appearing to read 'Dah-Wei D. Yuan', with a stylized flourish at the end.